

ARTICLE XVI. - PARI-MUTUEL WAGERING ON TELECAST RACING EVENTS (TELETRACKING)³⁵

Editor's note—Ord. No. 3860, § 1, adopted June 16, 2009, amended Art. XVI, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Art. XVI pertained to similar subject matter. See also the Code Comparative Table.

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Sec. 16-493. - Purpose.

This article is enacted for regulatory purposes and is designed to mitigate any harmful secondary effects.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-494. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Person means any individual, partnership, limited partnership, firm, corporation or association of any kind.

Dog racing means racing in which greyhound dogs chase a mechanical lure.

Horse racing means racing in which horses are mounted and ridden by jockeys. Horse racing includes harness racing, in which the horses are harnessed to a sulky, carriage or similar vehicle and driven by a driver.

Pari-mutuel wagering means a system of betting which provides for the distribution among the winning patrons of at least the total amount wagered less the amount withheld under State law.

Racing program means the live races conducted at an authorized track and any simulcast races shown to the public in conjunction with live racing on which pari-mutuel wagering is allowed.

Teletrack operator means any person who holds an Arizona Racing Commission permit for horse or dog racing events within Arizona and who accepts bets or wagers on the results of any pari-mutuel race at a location other than the race track.

Teletrack wagering means pari-mutuel wagering conducted at an off-track teletrack wagering establishment on a horse or dog racing program which is authorized within Arizona.

Teletrack wagering establishment means any establishment at which a teletrack operator accepts bets or wagers on the results of a horse or dog racing program conducted by a teletrack operator at an authorized track within Arizona.

Teletracking means the telecast of live audio and visual signals of horse or dog racing programs conducted at an authorized enclosure within Arizona to an authorized additional teletrack wagering establishment within Scottsdale for the purpose of pari-mutuel wagering.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-495. - Effect on other regulations.

Persons required to obtain a license for any activity covered by this article remain subject to all other applicable regulatory, tax or fee ordinances of the city or State.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-496. - Administration.

- (a) The financial services general manager or designee shall administer this article, except as otherwise specifically provided, and shall develop appropriate forms for this purpose. The chief of police shall assist in connection with license applications and enforcement.
- (b) License applications made pursuant to this article shall be submitted to the revenue and licensing director, who may issue, deny, suspend or revoke licenses in accordance with article I, provided that the decision whether or not to issue a teletrack wagering establishment license shall be made by the city council following the hearing provided for in section 16-508.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-497. - Teletrack operator, teletrack wagering establishment, license required.

- (a) It shall be unlawful for any person to function in the city as a teletrack operator or operate a teletrack wagering establishment without first obtaining the appropriate license under this article. A violation of this subsection is a class one misdemeanor and shall be punished by a minimum fine of at least one thousand dollars (\$1,000.00) plus applicable surcharges.
- (c) The licenses required by this section shall be in addition to any other licenses or permits required by any governmental authority.
- (d) A separate teletrack wagering establishment license is required for each teletracking location and/or type of racing within the city.
- (e) A separate teletrack operator license is required for each teletrack operator located at a teletrack wagering establishment.
- (f) A person desiring to operate a teletrack wagering establishment and to function as a teletrack operator shall obtain a license for each activity.
- (g) Licenses issued pursuant to this chapter are nontransferable.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-498. - Information required for teletrack operator license applications.

Applications for a teletrack operator license under this chapter shall include the following information:

- (1) The applicant's business name, business location, business mailing address, business email address, business fax number and business telephone number.
- (2) The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the teletrack operator, including, with respect to a corporation, the corporation's officers, directors and shareholders holding ten (10) percent or more of the outstanding shares of the corporation's stock.
- (3) Disclosure of information regarding persons identified pursuant to subsection (2) of this section as to (a) any felony conviction of such person within the preceding five (5) years; (b) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (c) revocation or suspension of any license or permit relating to pari-mutuel betting or teletracking activities.
- (4) Proof that the applicant holds a valid permit from the Arizona Racing Commission to conduct pari-mutuel races within the State of Arizona.
- (5) A copy of the agreement between the teletrack operator and teletrack wagering establishment for the provision of teletrack wagering.

- (6) A plan of operation in accordance with the specifications of Arizona Administrative Code, Title 19, Chapter 2, Article 4, Section R. 19-2-404.
- (7) Proof pursuant to A.R.S. § 41-1080(a) that the applicant's presence in the United States is authorized under Federal law, if the applicant is an individual.
- (8) Incomplete applications shall not be processed but returned to the applicant for resubmittal.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-499. - Teletrack wagering establishment license; application.

Applicants for a teletrack wagering establishment license shall provide the following information as part of the application:

- (1) The applicant's name, date of birth, residence address and telephone number.
- (2) The applicant's business name, business location, business mailing address, business email address, business fax number and business telephone number.
- (3) The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the establishment, including, with respect to a corporation, the corporation's officers, directors and stockholders holding ten (10) percent or more of the outstanding shares of the corporation's stock.
- (4) Disclosure of information regarding the persons identified pursuant to either subsections (1) or (3) of this section as to: (a) any felony conviction of such person within the preceding five (5) years; (b) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (c) revocation or suspension of any license or permit relating to pari-mutuel betting or teletracking activities.
- (5) Proof of a current class 6 or class 12 liquor license for the site.
- (6) Accurate drawings to scale indicating the floor plan of all buildings on the premises and the precise location of all teletracking facilities and activities.
- (7) A site plan for all buildings and associated parcel lines, including evidence of compliance with section 16-501 of this article unless this is a renewal application.
- (8) A vicinity ownership map showing and labeling all lots within five hundred (500) feet of the exterior boundaries of the parcel, not including public property or right-of-way.
- (9) A vicinity ownership list containing names and mailing addresses, with correct zip codes, of owners of all parcels shown on the vicinity ownership map. The city reserves the right to utilize its own vicinity ownership list if it deems the submitted ownership list is incomplete.
- (10) A parking plan showing all parking spaces available for the site, and traffic flow patterns.
- (11) A security plan to be reviewed and approved by the Police Department. The Chief of Police or designee shall generate criteria for these security plans which may include security guards and other appropriate measures for the protection of patrons, employees and the public. Such criteria shall at a minimum meet any standards established by the Arizona Racing Commission.
- (12) A copy of the agreement between the teletrack operator and teletrack wagering establishment for the provision of teletrack wagering.
- (13) Proof pursuant to A.R.S. § 41-1080(a) that the applicant's presence in the United States is authorized under Federal law, if an individual.
- (14) Incomplete applications shall not be processed but returned to the applicant for resubmittal.

Sec. 16-500. - Reserved.

Sec. 16-501. - Location of teletrack wagering establishment as to an initial license application.

- (a) No initial teletrack wagering establishment license shall be granted for any teletrack wagering establishment unless all of the following standards are met:
- (1) No teletrack wagering establishment shall be located within one thousand (1,000) feet of any other teletrack wagering establishment.
 - (2) No teletrack wagering establishment shall be located within five hundred (500) feet of any public or private school, public park or day nursery or preschool.
 - (3) No teletrack wagering establishment shall be located within five hundred (500) feet of any of the following zoning district boundaries: R1-190, R1-130, R1-70, R1-43, R1-35, R1-18, R1-10, R1-7, R1-5, R-2, R-3, R-4, R-4R, R-5, S-R, M-H, or any of the foregoing districts which also have a PRD, , P-C or ESL designation, unless a petition requesting waiver of this requirement, signed by fifty-one (51) percent of those persons residing thirty (30) days or more within a five-hundred-foot (500) radius of the proposed location is received and verified by the planning general manager or designee. In such case, the city council may waive the requirements of this subsection.
- (b) For purposes of this section, streets, alleys and other thoroughfares adjacent to the zoning district boundaries specified in subparagraph (a)(3) shall themselves be considered within such district boundaries. With respect to any such street, alley or other thoroughfare, measurements to determine whether the teletrack wagering establishment is within five hundred (500) feet of such boundary shall be taken to the edge of such alley nearest to the teletrack wagering establishment, or from the centerline of such street or thoroughfare, or to the property line of the applicable facility specified in subsections (a)(1) and (2) above. Measurement from the teletrack wagering establishment shall be taken from that portion of the teletrack wagering establishment, including projections therefrom, that is closest to the applicable zoning district or the applicable facility specified in subsections (a)(1), (2) and (3) above.
- (c) These provisions shall not be construed as permitting any use or activity which is otherwise prohibited or made punishable by law.
- (d) The requirements of this section other than subsection (c) do not apply to renewal applications provided that the applicant met the standards provided in this section in its initial or original application. If the teletrack wagering establishment allows its license issued pursuant to this article to lapse for a period of more than thirty (30) days than any subsequent reapplication shall be treated as an initial application and this section shall be applicable.

Sec. 16-502. - Additional information.

In addition to the information specified above an applicant shall provide such supplemental information as the revenue and licensing director reasonably determines to be necessary to fully evaluate the application.

Sec. 16-503. - Payment of fees and taxes.

No application for a license under this chapter will be processed with respect to an applicant who is delinquent in payment of any city taxes, fees or other payments due.

Sec. 16-504. - Fingerprinting, criminal history investigation, exemption.

Applicants for any license under this chapter, and all other persons required to be identified in connection with an application shall be subject to background and criminal history investigation and fingerprinting, provided that, fingerprinting and criminal history investigation will not be required for a teletrack operator if:

- (1) The applicant, within twelve (12) months prior to filing the application for a city teletrack operator license, has supplied the required information to the Arizona Racing Commission or to the Arizona Department of Racing or updated such information previously supplied as to any material changes and a criminal history investigation has been conducted at the state level on the basis of said information; and
- (2) The information described in subsection (1) and the result of the criminal investigation are available to the chief of police or designee.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-505. - Reserved

Sec. 16-506. - Fees.

- (a) An application for a teletrack operator or teletrack wagering establishment license shall include an application fee of five hundred dollars (\$500.00) and other fees required by this article.
- (b) The fee for a teletrack operator license shall be:
 - (1) Three thousand six hundred dollars (\$3,600.00) for up to four (4) parimutuel betting windows or tote machines.
 - (2) One thousand five hundred dollars (\$1,500.00) for each parimutuel window or tote machine in excess of four (4).
- (c) The fee for a teletrack wagering establishment license shall be six hundred dollars (\$600.00).
- (d) Each applicant or person requiring a records check and fingerprinting shall pay a fee for each records check and fingerprinting required by this article unless exempt from section 16-504. The amount of the fee shall be the actual cost of obtaining the criminal history information from the Arizona department of public safety.
- (e) A ten dollar (\$10.00) fee shall be paid for a replacement license if required because of loss of the original.
- (f) No fees are prorated, transferable or refundable.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-507. - Term of license.

The term of a teletrack wagering establishment and teletrack operator license issued pursuant to the provisions of this article is three (3) years.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-508. - Public hearing on teletrack wagering establishment license notice.

- (a) The city council shall hold a public hearing on an application for a teletrack wagering establishment license. Notice of the hearing shall be given at least thirty (30) days prior to the hearing in the following manner:
 - (1) Notice shall be published at least once in a newspaper of general circulation in the city.
 - (2) Notice shall be posted on the subject property in such a manner as to be legible from the public right-of-way.
 - (3) Notice shall be mailed by first class mail to each owner and tenant of all lots within five hundred (500) feet of the exterior boundaries of the parcel where the teletrack wagering establishment is to be located.
- (b) Within five (5) working days of the public hearing the applicant shall be notified in writing of the council's decision to approve or deny the application. The applicant shall communicate this decision to the Arizona Racing Commission.
- (c) The council may approve or deny the application, or may approve it subject to conditions to protect public health, safety and welfare.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-509. - Information update.

An applicant or licensee shall give written notice to the revenue and licensing director of any material changes in information submitted in connection with an application, within ten (10) days of such change.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-510. - Special provisions.

- (a) No person under the age of eighteen (18) years may be employed in any teletrack wagering establishment during any time when teletrack wagering is being conducted.
- (b) A person under the age of eighteen (18) years may not be present on the premises of a teletrack wagering establishment during any time when teletrack wagering is being conducted, unless accompanied by a parent or guardian.
- (c) The licensee, owner or operator of the teletrack wagering establishment shall take all reasonable measures, including but not limited to requiring identification from persons entering or present in a teletrack wagering establishment, to prevent unlawful gambling by minors.
- (d) Teletrack wagering establishments shall maintain security in accordance with the security plan approved during licensing of the establishment by the city.
- (e) Teletrack wagering may be conducted only between the hours of 7:00 a.m. and 12:00 a.m.
- (f) Revocation or suspension of a state permit from the Arizona Racing Commission to conduct pari-mutuel races within the State of Arizona will constitute automatic revocation or suspension of the corresponding city license.
- (g) It shall be unlawful for a teletrack wagering establishment to receive a simulcast race from an unlicensed teletrack operator.
- (h) A violation of subsections (a) through (e) or (g) above shall be a class two misdemeanor and shall be punished by a minimum fine of at least two hundred dollars (\$200.00) plus applicable surcharges.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-511. - Renewal.

- (a) Ninety (90) days prior to the license expiration date, a licensee shall apply to the revenue and licensing director or designee for renewal of the license. Application shall be made and reviewed as an original application., except that an application fee payment is not required on a renewal application. All other applicable fee payments are required. Failure to apply in the timeline specified in this section may lead to a lapse of the teletrack license in question and may lead the licensee to have to cease operations until a new license is obtained.
- (b) Granting of a license under this article does not confer an entitlement to or presumption of renewal of the license. Renewal may be denied for any reason deemed sufficient by the city in accordance with this chapter and article or to protect public health, safety and welfare.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-512. - Inspection of premises, property and records.

- (a) The business premises of any person required to be licensed under this article, including any property on the premises and any and all ledgers, books, records or memoranda, including information maintained on computer disks, tapes and terminal memory shall be open to inspection by representatives of the city upon request, at any time during the licensee's regular business hours.
- (b) Failure to comply with an authorized inspection pursuant to this section is a class one misdemeanor.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-513. - Revocation; grounds.

- (a) The revenue and licensing director may revoke a license in accordance with the procedures on any of the grounds for revocation stated in article I of this chapter, and for any of the following additional grounds:
 - (1) Violation of the laws governing wagering within the State of Arizona or the sale of liquor within the State of Arizona.
 - (2) Repeated acts of violence or disorderly conduct that would be considered grounds for revocation of a state liquor license.
 - (3) False or misleading testimony by the licensee in an investigation or other proceeding.
 - (4) Delinquency for more than thirty (30) days in the payment of any applicable taxes or fees to the city.
 - (5) Failure to operate a teletrack wagering establishment in compliance with plans submitted and approved pursuant to section 16-499(6), (10) and (11) of this article.
 - (6) Violation of any of the provisions of this article.
- (b) Revocation of a teletrack wagering establishment license shall constitute revocation of the teletrack operator license(s) issued for the same location.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-514. - Teletrack operator license suspension.

- (a) The teletrack operator license will be suspended in the event the teletrack wagering establishment location is no longer licensed due to ownership change or expiration of teletrack wagering establishment license or the teletrack operator no longer has a current Arizona Racing Gaming Permit.

- (b) It shall be unlawful for any person to function in the city as a teletrack operator with a suspended teletrack operator license.
- (c) A violation of subsection (b) above is a class one misdemeanor.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-515. - Review and appeals.

- (a) Any person aggrieved by any decision with respect to the denial, suspension or revocation of a license which is subject to this article, may secure review in accordance with article I of this chapter.
- (b) The hearing and appeal procedures in article I are hereby made applicable for any license suspended under this article.

(Ord. No. 3860, § 1, 6-16-09)

Sec. 16-516. - Posting and display of license.

Any licensee engaged as a teletrack wagering establishment under this article shall keep the license posted in a conspicuous place upon the premises of the teletrack wagering establishment.

(Ord. No. 3860, § 1, 6-16-09)

Secs. 16-517—16-549. - Reserved.